

At a United States District Court
for the Eastern District of New York
at the Courthouse located at 225
Cadman Plaza East, Brooklyn, New
York, on the 31st day of January 2006

P R E S E N T

HON. CHERYL POLLAN

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

FEB 3 2006

P.M.

TIME A.M.

Index No. : CV-04-5694
TIME A.M.

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DAVID J. MOUNIER, Jr., an infant by his
F/N/G DAVID MOUNIER, and by his M/N/G ANA
MOUNIER and DAVID MOUNIER and ANNA MOUNIER

INFANT'S COMPROMISE
ORDER

Plaintiffs,

- against -

UNITED STATES OF AMERICA,

Defendant.
-----X

Upon reading and filing the affidavit of DAVID MOUNIER, the Father and Natural Guardian of the infant, DAVID MOUNIER JR., herein sworn to this th day of October 2005; the Affirmation of JEFFREY B. MANCA, ESQ., attorney for the plaintiffs, dated the day of October, 2005; the Affirmation of Dr. Gomez dated the day of October, 2005; and all supporting papers, and it appearing that the infant is SEVEN (7) YEARS of age, having been born on March 25, 1998 and the infant, DAVID MOUNIER JR., by his Father and Natural Guardian, DAVID MOUNIER, and the attorney having appeared before the Court and it appearing that the best interests of the said infant will be served;

NOW, on motion of **JEFFREY B. MANCA**, attorney for the petitioner; it is

ORDERED, that **DAVID MOUNIER**, the Father and Natural Guardian, be and hereby is authorized to enter into a compromise of the infant's cause of action herein upon the following terms, to wit:

That the defendant through it's representative pay the sum of **THIRTY FIVE THOUSAND (\$35,000.00) DOLLARS**, for the infant's claim herein; that out of there be paid to **JEFFREY B. MANCA**, attorney for the infant, the sum of **SEVEN THOUSAND and 00/100 (\$7,000.00) DOLLARS**, in full settlement of attorney's claim for compensation and services, including costs and disbursements; and it is further

ORDERED, that the balance of said settlement, to wit: the sum of **TWENTY EIGHT THOUSAND and 00/00 (\$28,000.00) DOLLARS** shall be received and collected by the Natural Guardian jointly with an officer of Astoria Federal Savings Bank , and under the terms set forth below and shall be received and collected by the Father and Natural Guardian jointly with an office of Astoria Federal Savings bank, located at 2241 65th Street Brooklyn, New York to be deposited in the said bank, in the highest interest-bearing account, in the name of the Guardian, in trust for the infant and subject to the further Order of the Court or any other Court of competent jurisdiction; and it is further

ORDERED, that the depository shall pay over all monies held in the account to the infant Petitioner herein, upon demand and without further Court Order when he reaches the age of **EIGHTEEN (18) YEARS**, upon presentment of proper proof to such depository; and it is further;

ORDERED, that conditioned upon compliance with the terms of this Order, the said guardian parent be and hereby is authorized and empowered to execute and deliver a General Release and any other instruments necessary to effectuate the settlement and that the filing of bond is hereby waived.

E N T E R :

/s/ Hon. Cheryl L. Pollak

Cheryl L. Pollak
1/31/06

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CV-04-5894

-----X
DAVID J. MOUNIER, Jr., an infant by his
F/N/G DAVID MOUNIER, and by his M/N/G ANA
MOUNIER and DAVID MOUNER and ANNA MOUNIER

ATTORNEY'S AFFIRMATION

Plaintiffs,

- against -

THE UNITED STATES OF AMERICA,

Defendant.

-----X

JEFFREY B. MANCA, an attorney-at-law duly authorized to practice law in the Courts of the State of New York, affirms the following under penalties of perjury:

1. I am the attorney for the Plaintiffs herein, and makes this Affirmation in support of the within Infant's Compromise Order, and maintains my office for the practice of my profession at 30 Vesey Street, 2nd FL., New York, New York 10007.

2. That on May 30, 2005 DAVID MOUNIER, the Father and Natural Guardian of the infant, DAVID MOUNIER, JR. retained the firm of JEFFREY B. MANCA, by written retainer to represent the infant.

3. By the terms of the retainer, we are to receive for legal services rendered on behalf of the infant, **TWENTY (20%) PERCENT** of the sum recovered subject to the approval of the Court. The infant had previously been represented by Earle Weprin. Mr. Weprin has retired and this office has agreed to represent the Plaintiff in this matter.

4. The infant, DAVID MOUNIER JR. was injured while he was running at Reis Park, Queens, New York, when he tripped and fell over a barbaque pit. He was taken to the emergency room at Maimonides Medical

Center where he was examined, diagnosed and released. He was then taken to his primary doctor and Dr. Bruck.

5. That your affirmant has been informed that the infant herein reasonably recovered from his injuries.

6. That after lengthy negotiations for the settlement of this matter, your affirmant's firm received an offer in the sum of **THIRTY FIVE THOUSAND and 00/00 (\$35,000.00) DOLLARS.**

7. That your affirmant believes this offer is fair compensation and in the best interests of the infant.

8. That your affirmant has recommended the acceptance of the offer to compromise for the following reasons:

That the infant has made an excellent recovery from his injuries and he was Running in a park therefore it is in his interests not to risk the uncertainty of further protracted litigation.

9. That no other action or proceeding has been commenced on behalf of the infant as a result of the accident in which he was injured.

10. That there are no outstanding medical bills to acknowledge in this matter.

11. The following services were rendered in this matter:

- (a) a total and complete investigation of the facts of this matter was conducted;
- (b) medical records were obtained;
- (c) a notice of claim and Summons and Complaint were served on the City.
- (d) extensive correspondence was conducted regarding the necessary insurance information;
- (e) This Affirmation; Infant's Compromise Order and supporting papers were prepared.

12. In the event this Court approves the proposed settlement offer, we will prepare General Releases and Stipulations of Discontinuance and arrange for the disposition of settlement monies.

13. In accordance with the terms of the retainer herein, we respectfully ask the Court to fix the legal fee at **SEVEN THOUSAND 00/00 (\$7,000.00) DOLLARS**, which is the fair and reasonable value of the legal services rendered to the infant, DAVID MOUNIER JR., including costs and disbursements.

14. Neither I nor any member of my law firm has become concerned in the settlement at the instance of any party or person opposing, or with interests adverse to the infant, directly or indirectly, nor received nor will receive any compensation from any person asserting a claim arising from the same occurrence.

15. No previous application for the relief requested herein has been made to this or any other court.

WHEREFORE, your affirmant prays to this Court to make an Order herein for the relief sought.

Dated: New York, New York
October 13, 2005



JEFFREY B. MANCA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAVID J. MOUNIER, Jr., an infant by his
F/N/G DAVID MOUNIER, and by his M/N/G ANA
MOUNIER and DAVID MOUNER and ANNA MOUNIER

Plaintiffs,

AFFIDAVIT OF GUARDIAN

- against -

UNITED STATES OF AMERICA,

Defendants.

-----X
STATE OF NEW YORK)
 ss.:
COUNTY OF Kings)

DAVID MOUNIER and ANA MOUNIER, being duly sworn, depose and
state:

1. We are the parents and Natural Guardians of the infant,
DAVID MOUNIER JR. who resides with us at 4414 Fourth Avenue, Brooklyn,
New York.

2. The infant DAVID MOUNIER JR is 7 YEARS of age, having
been born on March 25, 1998.

3. The circumstances giving rise to this lawsuit are as
follows: On July 4, 2004 at approximately 7:30 p.m. my son was running
at Reis Park when he was caused to trip and fall into a barbecue and
suffered burns to his right leg. He was taken to Lutheran Medical Center
wherein he was diagnosed with a 1st degree burn treated and released.
He then came under the care of Dr. Tulio Gomez and Dr. Michael Bruck,
where he received treatment for his burn.

4. That on or about May 30, 2005 we retained the law firm of

JEFFREY B. MANCA, to prosecute an action on behalf of our son.

5. That we agree that the attorneys fees, inclusive of costs and disbursements, should be **TWENTY (20) PERCENT** of any recovery, subject to the approval of this Court.

6. That we have been informed an offer has been made to settle my son's cause of action, in the sum of **THIRTY FIVE THOUSAND (\$35,000.00) DOLLARS**. The proposed distribution is as follows: to our attorney **JEFFREY B. MANCA**, the sum of **SEVEN THOUSAND 00/100 (\$7,000.00) DOLLARS**.

7. That the remainder **TWENTY EIGHT THOUSAND 00/100 (\$28,000.00) DOLLARS** be deposited in a bank designated by this Court, for the sole use and benefit and to the credit of the infant.

8. We believe this settlement offer should be accepted and we agree with our attorney that doing so is in the best interests of the infant.

9. All medical bills have been paid.

10. That we agree with our attorney **JEFFREY B. MANCA, ESQ.**, that the proposed settlement should be accepted.

11. No other action or proceeding has been commenced on behalf of the infant as a result of this accident in which he was injured.

12. That no previous application for the relief requested herein has been made to this or any other court. That no member of our family has received, nor expects to receive compensation relative to this claim from any interpret party.

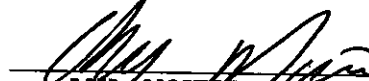
13. We agree to waive any claim for loss of services that we may have.

WHEREFORE, it is respectfully requested that this Court make and enter an Order for the relief sought herein.

Dated: Brooklyn, New York

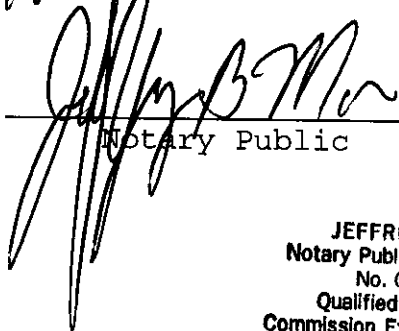


DAVID MOUNIER



ANA MOUNIER

Sworn to before me this
18th day of October 2005



Notary Public

JEFFREY B. MANCA
Notary Public, State of New York
No. 02MA6055836
Qualified in Nassau County
Commission Expires March 5, 2007

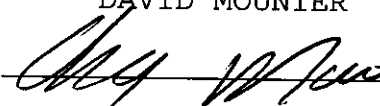
STATE OF NEW YORK)
)
COUNTY OF KINGS) ss.:

David Mounier, being duly sworn, deposes and says that he has read the foregoing Affidavit and believes that the Statements are true.

Ana Mounier, being duly sworn, deposes and says that she has read the foregoing Affidavit and believes that the Statements are true.



DAVID MOUNIER



ANA MOUNIER

Sworn to before me this
18 day of October 2005



Notary Public

JEFFREY B. MANCA
Notary Public, State of New York
No. 02MA6055836
Qualified in Nassau County
Commission Expires March 5, 2017

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
DAVID J. MOUNIER, Jr., an infant by his
F/N/G DAVID MOUNIER, and by his M/N/G ANA
MOUNIER and DAVID MOUNER and ANNA MOUNIER

Index No.:

Plaintiffs,

PHYSICIAN'S
AFFIRMATION

- against -

THE UNITED STATES OF AMERICA,

Defendants.

-----X
STATE OF NEW YORK)
 ss.:
COUNTY OF KINGS)

The undersigned says:

1. My name is Tulio Gomez and am a physician authorized by law to practice medicine with the State of New York, and I maintain an office at 8413 13th Avenue, Brooklyn, New York.

2. I examined the infant, DAVID MOUNIER JR. on July 5th, 2002 for injuries sustained by the infant as a result of a burn on July 4, 2002.

3. As a result of the accident, the infant sustained a burn of the right leg all of which he underwent treatment at the clinic of Maimonides Medical Center. I also treated him and referred him to Dr Michael Bruck, a plastic surgeon.

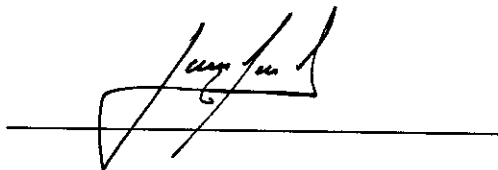
4. In my opinion, the infant has recovered from the injuries sustained.

5. My fees for medical services rendered to the infant have been paid. I have not been paid, nor do I expect to be paid by an party

or person opposing or with interests adverse to the infant.

6. I state under the penalties of perjury, that the statements made herein are true, except as to such statements as are based upon information and belief, which statements I believe to be true.

Dated: Brooklyn, New York
October , 2005

A handwritten signature in dark ink, appearing to be "J. J. [unclear]", is written over a horizontal line. The signature is stylized and somewhat illegible.



U.S. Department of Justice
United States Attorney
Eastern District of New York

One Pierrepont Plaza, 16th Floor
147 Pierrepont Street
Brooklyn, New York 11201-2776

October 12, 2005

Jeffrey B. Manca, Esq.
c/o Earle F. Weprin, Esq.
Attorneys for Plaintiff
26 Court Street
Suite 901
Brooklyn, New York 11242

Re: **Mournier v. United States of America**
CV-04-5694

Dear Mr. Manca:

The Government will accept your offer to settle this case for \$35,000 in total without costs or attorney's fees subject to execution by you and your clients of the government's settlement agreement and release. Please provide your mailing address as it does not appear in the record of this case.

Very truly yours,

ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York
One Pierrepont Plaza
(14th Floor)

By: /s/ Kevan Cleary
KEVAN CLEARY
Senior Trial Counsel
(718) 254-6027

cc:

Index no.: CV-04-5694
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DAVID J. MOUNIER, Jr., an infant by his
f/n/g DAVID MOUNIER, et. al.

Plaintiff(s),

-against-

UNITED STATES OF AMERICA,

Defendant(s).

INFANT COMPROMISE ORDER

LAW OFFICES OF JEFFREY B. MANCA
Attorneys for Plaintiff(s)
30 Vesey Street - 2nd FL.
New York, New York 10007
(212) 619-3490